

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF KINGS

Part 1 - General

**RULE 700 - Applicability of Chapter**

The rules of this chapter apply to all cases brought under the Family Code, to cases under "Petition for Injunction Prohibiting Harassment" and "Workplace Violence Safety Act" harassment statutes, Code of Civil Procedure section 527.6; et seq. and to actions brought by the District Attorney, Family Support Division.

**RULE 701 - Result of Failure to Comply with Rules**

Failure to comply with these rules may result in the issuance of one or more of the following orders:

- (A) An order removing the matter from calendar;
- (B) An order continuing the matter;
- (C) After notice and an opportunity to be heard, an award of attorney's fees and costs against the non-complying party and/or the party's attorney, including but not limited to an award under Code of Civil Procedure sections 128 et seq. and 575.2; Family Code sections 270 et seq. and 2030 et seq. and California Rules of Court, Rule 227;
- (D) The rendering of an order based solely upon the pleadings properly before the court;
- (E) Other orders as the court deems appropriate under the circumstances.

(01/01/99)

**RULE 702 - Attorney Fees**

- (A) Except as provided in Rule 701 or as otherwise allowed by statute, attorney's fees and costs will not be awarded unless a Judicial Council Form Income and Expense Declaration is filed with page 3 of 4, Item 4a, and c (attorney's fees) fully and accurately completed.
- (B) If attorney's fees and/or costs of litigation (including fees for experts) are requested in a combined amount in excess of \$1,250.00, the request shall be supported by a separate declaration signed by the attorney, describing services performed, time expended, hourly rate, and all reasonably anticipated fees and costs. In the absence of such declaration, no award in excess of \$1,250.00 for fees and costs will be made.

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- (C) As a condition to requesting attorney fees under Family Code section 271 et seq. At the time of the trial, the party seeking attorney fees shall deliver to the opposing counsel or unrepresented party a written last best offer 48 hours before the assigned trial date.

(01/01/99)

**RULE 703 - Photocopies of Forms**

Photocopies of forms adopted by the Judicial Council shall be legible and tumbled if two sided.

(01/01/99)

**RULE 704 - Interpreters**

Except as provided by law for Domestic Violence Prevention Act proceedings, interpreter services will be paid for by the party requesting the service unless the court orders otherwise. Parties who need interpreters should bring an appropriate bilingual person with them to court at their own expense. The court will, for a fee, have a certified Spanish language interpreter available on 24 hours advance notice.

**RULE 705 - Case Management**

The court encourages the use of case management plans as set forth in Family Code section 2450 et seq. The purpose of case management is to expedite the processing of dissolution of marriage cases, reduce the expense of litigation and focus on the early resolution of these cases by settlement.

All parties and counsel participating in a case management plan will be expected to execute the court's "Stipulation and Order Re: Alternative Family Law Case Resolution" and to exchange information as set forth in the court's standard case management discovery plan (Exhibit A to the "Stipulation and Order Re Alternate Family Law Case Resolution" available from the court clerk). Counsel are directed to the language set forth in Family Code section 2451(c) regarding a rebuttable presumption available to counsel who enter into a case management plan.

(01/01/99)

**RULE 706 - Parties Not Represented by Counsel - Document Requirements**

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- (A) Any proposed marital settlement agreement in which only one party has legal counsel should contain language which is in substantial conformity with the following:

"Petitioner/Respondent acknowledges by signature or initials at the end of this paragraph that she/he has been advised to obtain independent legal counsel, that she/he has voluntarily chosen not to do so, that she/he has read and understands the contents and legal effect of this agreement and has entered into it and signed it freely and voluntarily."

- (B) If a document is prepared by a non-attorney who charges a fee for such preparation, the document must include the name of the preparer and the capacity of the party for which it was prepared. (For example: prepared by ABC Typing Service for Petitioner, Typed by 123 Divorce Service for Respondent, Prepared by XYZ Legal Services, etc.)

(01/01/99)

**(RULES 707 - 709 Reserved)**

**Part 2 - Moving and Responsive Pleadings and Other Pre Hearing Matters**

**RULE 710 - Setting the Date and Time for Motions and Orders to Show Cause**

- (A) No matter shall be calendared on the Family Law and Motion Calendar when both sides are represented by counsel without first calling opposing counsel and attempting to clear a hearing date, unless notice is otherwise excused by these rules or if opposing counsel is the District Attorney.
- (B) The matter is then set on the Family Law and Motion Calendar by calling the calendar clerk and obtaining a date and time for hearing.

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**RULE 711 - Moving and Responsive Pleadings**

- (A) All moving and responsive law and motion pleadings must be filed and served on the opposing party and/or attorney in accordance with applicable law including Code of Civil Procedure section 1005 and Code of Civil Procedure section 527 and Family Code sections 241 - 245. Failure to comply with this rule without good cause may result in the imposition of sanctions.
- (B) All declarations shall be typed. Absent prior ex-parte application, the court will not allow more than ten (10) typewritten, twenty-eight (28) line pages of declarations in the moving papers including attachments, but excluding

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financial, medical, psychological and education documentation. Counter declarations or responsive declarations are similarly limited.

- (C) The court may in its discretion ignore late filed papers, or pages in excess of (10) ten typewritten pages, or may continue the matter and impose costs, including attorney's fees, on the offending party.
- (D) No foundation will be required for regular mediation, probation, civil investigation, medical, dental or psychological reports or school attendance and report cards unless there is an issue as to the authenticity of the documents. Except as stated above, conclusions, arguments and inadmissible hearsay in declarations will not be considered by the court. The granting of a motion to strike inadmissible hearsay or obviously conclusionary statements may result in an award of sanctions after notice and hearing against the attorney who offered the inadmissible hearsay or obviously objectionable material.
- (E) In all cases where specific Judicial Council forms are available, the court requires use of such forms rather than original pleadings prepared by a party or by counsel. If an approved form is inadequate for a given circumstance, an addendum may be attached.

(01/01/99)

**RULE 712 - Taking Matters Off Calendar**

After service of the moving papers, no matter shall be taken off calendar without prior notice to the responding party or attorney.

**RULE 713 - Filing Proof of Service**

Proof of service shall be filed with the clerk's office one day prior to hearing. Failure to do so may result in the matter being dropped from calendar. If a responding party fails to appear at hearing, and if proof of service has not been filed, the moving party must immediately submit proof of timely service to the court; otherwise the matter will be taken off calendar. (01/01/99)

**RULE 714 - Continuances**

- (A) Parties may stipulate to a continuance of a motion hearing or order to show cause by calling the calendar clerk and obtaining a new date.
- (B) The same law and motion matter may not be continued more than three times without a specific request to the court advising the court of the two

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prior continuances and the reasons for same, and the reasons for further continuance. (01/01/99)

**RULE 715 - Hearings Estimated to Take More Than 30 Minutes**

- (A) Hearings may be referred to the calendar clerk for rescheduling or reset directly by the assigned department if both counsel and the court agree or the court determines that the matter will take more than thirty (30) minutes.
- (B) The attorneys shall consult with each other and the court in advance of the hearing. If the matter is to take more than thirty (30) minutes counsel should confer with each other in an attempt to resolve the issue prior to recalendaring the matter for a hearing in excess of thirty (30) minutes.

**RULE 716 - Signature of Orders in Absence of the Hearing Judge**

If the judge who pronounced an order in court is unavailable to sign a conforming written order which written order is required before the judge will be available, said order shall be submitted to the presiding judge or to any available judge if the presiding judge is unavailable, along with an explanation of the exigent circumstances and a copy of the minute order and/or transcript reflecting the court's oral order. (01/01/99)

**RULE 717 - Ex-Parte Orders (Family Code sections 240 et seq. and 3062)**

- (A) Procedures – Application for ex-parte orders shall be made in accordance with Rule 379 of the California Rules of Court. In addition, attorneys or parties making such application shall adhere to the following procedures:
  - (1) Make an appointment with the clerk of the assigned department for a hearing of the ex-parte request. The moving papers must be submitted
  - (2) Except as provided by Family Code section 6300, a minimum of twenty-four (24) hours notice shall be given to the opposing party. The notice must include the nature of the request and the date, time and department where the ex-parte application for order will be made. The moving party shall inform the court, by way of affidavit or written declaration, whether or not reasonable notice has been given to opposing counsel/party so that he or she may have the ability to oppose the application in chambers.
  - (3) Twenty-four Hours Notice Excused – Notice may be excused if the declaration specifically establishes:

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- possible; or
- (a) Following a good faith attempt, the giving of the notice is not possible; or
  - (b) Opposing attorney or party was notified and does not object to the ex-parte orders; or
  - (c) Giving of such notice would frustrate the very purpose of the order and cause the applicant to suffer immediate and irreparable injury.
- (4) Failure to Give Notice – If the party requesting the ex-parte order fails without adequate excuse to give notice as required above, the court may, at the request of the opposing party:
- Attorney;
- (a) Grant sanctions against the moving party or the offending Attorney;
  - (b) Vacate the order;
  - (c) Grant attorney's fees to set aside the order;
  - (d) Shorten time for hearing the motion; or
  - (e) Order other relief as deemed appropriate.

(B) Declarations

- (1) Change of Status Quo – THERE IS AN ABSOLUTE DUTY TO DISCLOSE THE FACT THAT A REQUESTED EX-PARTE ORDER WILL RESULT IN A CHANGE OF STATUS QUO. ATTORNEY FEES INCURRED BY THE RESPONDING PARTY TO RE-INSTITUTE THE STATUS QUO MAY BE AWARDED AS SANCTIONS IF NO PRIOR DISCLOSURE HAS BEEN MADE. Any declaration in support of an ex-parte order changing the status quo, as opposed to preserving the peace or maintaining the status quo, shall reveal this fact, describe the existing situation, and set forth facts justifying the change of the status quo.
- (2) Specific declarations must support requests for ex-parte orders. Ex-parte orders will issue only if accompanied by attached declarations alleging specific facts within the personal knowledge of the declarant which are adequate to support the issuance of such orders. When seeking orders for personal restraints, temporary custody, restriction of visitation or removal of one party from a residence, such declarations

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must include dates of incidents, descriptive facts and the specific harm caused.

(3) Child Custody

(a) The declaration in support of a request for an ex-parte order granting temporary custody of a minor child must include the following information or it will be denied:

(1) The date of separation, or, if a custody order has previously been issued, a copy of that order, a summary of the custody/visitation practices of the parties in the past, any change in the child's place of residence in the past 120 days and the circumstance surrounding these changes, and if the juvenile court has previously made an order regarding custody, a statement to that effect and a copy of that order, if available.

(2) The name of the custodial parent since the last order, or since the date of separation if there is no order in effect, and whether or not the applicant obtained custody by mutual agreement or order of the court.

(3) Requests for ex-parte custody orders are limited by Family Code section 3064 which requires a showing of immediate harm to the child or immediate risk the child will be removed from the State of California.

(4) If an ex-parte change in status quo is required, clear and specific facts demonstrating the health and welfare of the child will be in danger or the child is likely to be concealed without a change of custody.

(5) Any proposed custody and visitation orders in cases alleging domestic violence must comply with Family

Code section

(b) An ex-parte order for child custody will not issue without an accompanying ex-parte order restricting the removal of the child by both parties from the State of California except for good cause shown.

(c) When issues of custody and visitation will be contested, the moving party may contact the Probation Department to attempt to establish a pre order-to-show-cause/notice of motion

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mediation. However, if the Probation Department has become backlogged in processing custody case mediations, this pre order-to-show-cause/notice of motion procedure may not be available.

- (4) Exclusive Use of Vehicle – An ex-parte order granting exclusive use of a vehicle will not be granted unless the declaration demonstrates that the opposing party has other suitable transportation available or requires no such transportation.
- (5) Removal from Residence – An ex-parte order removing a party from a residence will not issue without facts demonstrating violence, and the date or dates thereof, and that physical harm would result, unless the declaration clearly states that the excluded party has previously voluntarily vacated the residence. The declaration supporting the request must set forth all the facts required by Family Code section 6321.
- (6) Payment of Obligations – An ex-parte order requiring the payment of obligations will not issue without financial facts justifying the order, plus an attached completed income and expense declaration with at least an estimate of opposing party's monthly gross income. Only in unusual circumstances will an order obligating the responding party to make payments be issued.
- (C) Modified Orders – If the court modifies any requested orders, it is the responsibility of the applicant or attorney to conform all copies with the changes before filing and service. Failure to do so may result in sanctions and in contempt of court against the offending party and/or attorney.
- (D) Set Aside of Ex-Parte Orders – If a responding party requests an ex-parte order be set aside prior to the date set for hearing, notice shall be given to the moving party. The court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders.
- (E) Special Procedures for Restraining Orders and Injunctive Relief Pertaining to Domestic Violence – To obtain enforcement of temporary restraining orders, applicant or his/her attorney should deliver a copy of such orders to the designated law enforcement agencies. The order should have a file-endorsed stamp by the clerk on the upper right-hand corner of the first page.
- (F) Prior Applications for Domestic Violence – Applicants for domestic violence restraining orders shall prepare and submit with their application a



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declaration regarding prior applications for orders regarding the same parties. Blank declaration forms are available from the clerk.

(01/01/99)

**(RULES 718 - 719 Reserved)**

**Part 3 - Hearing Procedures**

**RULE 720 - Relief Based on Pleadings**

Consistent with the appellate authority of Reifler v. Superior Court (1974) 39 Cal.App.3d 479 or that portion of Rules 1225(a) and 323 of the California Rules of Court which provide that the court may grant or deny relief solely on the basis of pleadings without the presentation of oral testimony, that policy is hereby invoked by the court as to all law and motion matters described in Rule 700 of these rules, except as the court may, in its discretion, determine. (01/01/99)

**RULE 721 - Calendar Call - Time Estimates**

- (A) The calendar for each session of family law department shall be called promptly at the designated time. Counsel shall state their names, appearance, whether moving or responding party and an accurate time estimate of their side of the case.
- (B) If the time estimate of either party is exceeded, the court may, after the time has expired, in its discretion, interrupt such party and rule without further hearing, defer the matter to the end of the calendar if time permits, enter interim orders, continue the matter to the next available date, or order the matter off calendar. (01/01/99)

**RULE 722 - Pre-Hearing Settlement Efforts**

- A) Meet and Confer Requirement.
  - (1) Except for proceedings under the Domestic Violence Prevention Act and the District Attorney Family Support calendar, counsel shall confer with opposing counsel prior to the beginning of a contested hearing to ascertain whether or not any issues can be resolved or limited. Failure to make such contact and conduct settlement negotiations in good faith shall have a bearing on attorney's fees to be awarded and may result in a court-mandated continuance. It is the intent of this rule to encourage counsel and the parties to resolve the issues between them through realistic problem solving rather than unnecessary adversarial

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hearings. It is the court's intent that only those matters and issues that genuinely require judicial determination come before it.

- (2) Except as provided below, no case on the Family Law Order to Show Cause or Notice of Motion calendar shall be heard unless counsel, with their respective clients either physically present or immediately physically available, have met previously and conferred in good faith to resolve all issues. All documents that are required by these local rules or that counsel would rely upon at the hearing shall be exchanged before or while conferring.
- (3) Where, with court permission for good cause shown, counsel are appearing on behalf of a client who because of geographical distance, or for other good cause, will not be present at the hearing, counsel shall arrange for the absent client to be on telephone standby for last minute communication.
- (4) Where both parties are either not represented by counsel or only one party is represented by counsel, compliance with this rule may be excused unless otherwise ordered by the court.

(B) Exchange of Documents:

- (1) Prior to the court hearing, the parties are required to provide copies of documentary evidence to opposing parties sufficiently in advance of the hearing to permit meaningful review and not wait until the time of the hearing to "surprise" the opposing party with proffered documentary evidence. An exception to the foregoing shall apply if the document clearly and substantially impeaches the veracity of a party or witness, and the document is used primarily for that purpose.
- (2) In addition to serving the documents on the responding party as required by the California Rules of Court, the moving and responding parties in cases requesting payment of child support, spousal support, or attorneys fees and costs, (except for the District Attorney) shall attach to the moving or responding papers copies of all pay stubs received in the last ninety days or a single pay stub which contains year to date information.

(C) Revised Time Estimate – For all hearings, when some of the issues being contested have been resolved, counsel shall advise the court of the revised estimate of the time required for the hearing.

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- (D) Contested Issues - Offers to Stipulate – Prior to appearance at a hearing, the parties shall discuss the issues and offers to stipulate made by each party. Such discussions may be in person or by telephone. Failure to comply completely with the provisions of this rule may result in an award of attorney fees to the other party or the imposition of sanctions. The court may review the parties' offers to stipulate after making its order and shall consider the reasonableness of the offer in determining an award of attorney fees and costs. The making of an unreasonable offer may result in an award of attorney fees or sanctions or both.

(01/01/99)

**RULE 723 - Stipulations in Open Court**

- (A) The settlement of matters resulting by stipulation is favored and settled matters will take precedence over contested matters. The use of a court reporter is required when stating the agreement for the record and the court shall require the parties to submit a written stipulated order and may require the parties to submit such a stipulated order prior to acceptance of the stipulation.
- (B) If a case is settled after calendar call but before the hearing, one of the attorneys should inform the judge's clerk or bailiff of that fact, whereupon the stipulation will be taken by the court ahead of all contested matters. No party shall represent that a case is settled unless all issues the parties want addressed at that hearing have been settled. When there is "only" one issue remaining to be determined by the court at the instant hearing, the case is not settled.

(01/01/99)

**RULE 724 - Failure to Appear/Tardiness**

- (A) Failure of the moving party or attorney to be present at the calendar call or failure to have informed the bailiff or clerk of his/her location shall result in the matter being removed from the calendar, and if the responding party has appeared, attorney's fees and costs may be awarded to the appearing party.
- (B) In the event the responding party or attorney fails to appear or to have informed the bailiff or clerk of his/her location, the court may continue the matter, award attorney's fees, or enter an order on the pleadings, offers of proof, and testimony of the moving party.

(01/01/99)

**RULE 725 - Preparation of Order After Hearing**

- (A) Unless otherwise ordered by the court, the moving party shall prepare a written order following any hearing on the law and motion calendar. The parties are encouraged to utilize the court's three-part NCR form of Findings and Order After Hearing.
- (B) The preparing party shall mail the proposed order to opposing counsel for approval within ten (10) calendar days of the hearing on the motion if orders were made on the date of the hearing or within ten (10) calendar days of date of mailing of the intended ruling by the court if the order was not made at the time of the hearing. The attorney who receives the proposed order shall return the order signed as approved or send a letter to opposing counsel and the court within ten (10) calendar days of the date of mailing of the proposed order by the preparing attorney. In the event of a dispute, the preparing party shall send a letter to the court (with a copy to opposing counsel) attaching the order prepared by the preparing attorney, the alternative order prepared by the receiving attorney, and a description of the difference in the orders. If the preparing attorney does not receive a response within ten (10) days of having mailed the proposed order to opposing attorney, the preparing party may submit the order directly to the court with correspondence advising the court of the lack of response. Absent prior approval by the preparing party no modifications shall be made on the face of the order prepared by another party. Unless waived by the court any disagreement between the parties concerning the accuracy of the prepared order which has been submitted to the court must be accompanied by the applicable portions of the hearing transcript.
- (C) In cases without an attorney on the opposing side the represented side may submit the form of order directly to the court. Except as to District Attorney support orders counsel shall forward a copy of the proposed order to the opposing party at or before the time of submitting it to the court.

**(RULES 726 - 729 Reserved)**

**Part 4 - CHILD SUPPORT AND SPOUSAL SUPPORT**

**RULE 730 - Income and Expense Declaration**

- (A) An income and expense declaration on current Judicial Council form shall be filed, attached to, and served with the moving and responsive papers in all matters when child support, spousal support, attorney's fees or payment of obligations is at issue (other than in contempt proceedings), except that in actions in which the District Attorney appears pursuant to Welfare and

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Institutions Code section 11475.1 on behalf of a child receiving public assistance, the District Attorney shall not be required to file an income and expense declaration. In actions in which the District Attorney is appearing on behalf of another jurisdiction, either within or outside of the State of California, the District Attorney shall not be required to file an income and expense declaration for a non-welfare custodial parent unless (1) the necessary basic financial data is not stated in the petition or attached declarations, and (2) within a reasonable time prior to the date set for hearing, the responding party or the attorney for the responding party sends notice in writing to the Kings County District Attorney, Family Support Division requesting a completed income and expense declaration.

- (B) The failure to complete the income and expense declaration fully or to attach the required pay stubs may result in the court, within its discretion, applying any one or more of the sanctions or remedies set forth in these local family law rules.
- (C) If an income and expense declaration is more than ninety days old, the party must file a new income and expense declaration. In the event there has been no change within the previous ninety days, a declaration under penalty of perjury to that effect must be filed with the court in lieu of a new income and expense declaration. In either case, current verification of earnings or income must be attached.
- (D) For wage earners, pay stubs for the immediately preceding ninety days or one pay stub showing current year to date information shall be attached to all income and expense declarations.
- (E) Other discoverable items NOT TO BE FILED WITH THE COURT, but to be delivered if requested to the other party five (5) calendar days before the hearing are as follows:
  - (1) Copies of individual or corporate (if applicable) tax returns for the immediately preceding year (both State and Federal) including all schedules.
  - (2) Copies of all profit and loss statements prepared in the ordinary course of business for the last twelve (12) months.
  - (3) Copies of all loan applications or financial statements submitted to financial institutions within the last three years, whether or not a loan was obtained. If said documents are not available (for example, they are in the possession and control of the other party), a declaration under penalty of perjury shall state that fact. Willful failure to comply

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with either this paragraph or paragraph D may result in sanctions, if requested.

(01/01/99)

**RULE 731 - Effective Date of Support Order**

Unless otherwise ordered, the obligation to pay under a support order shall commence on the date the motion or order to show cause was served on the responding party as reflected in a written proof of service on file with the court, or the date the responding party appeared on the motion or order to show cause, whichever is earlier. (01/01/99)

**(RULES 732 - 739 Reserved)**

**Part 5 - CHILD CUSTODY AND VISITATION**

**RULE 740 - Mediation**

All matters in which a motion or order to show cause has been filed involving disputed custody and visitation of minors will be referred to the Probation Department's civil investigator/mediator for mediation. The mediator shall endeavor to have the matter settled by agreement of the parties. Upon completion of mediation, the mediator shall, if an agreement has been reached, include the parents' stipulation in the mediator's report. If no agreement is reached, the mediator shall so inform the court and the mediator may make a recommendation to the court with respect to the matter in issue.

Mediation proceedings shall be held in private, and all communications, written and verbal, shall be deemed "official information" (per section 1040 of the Evidence Code). However, said information may be disclosed to the court, subject to cross-examination as provided by law.

(01/01/99)

**RULE 741 - Formal Child Custody Investigation and Report**

Matters of custody and visitation will not be referred for a formal child custody investigation and report unless the court is satisfied that one is necessary. The parties may not stipulate to such an investigation with the probation mediator providing the evaluation without the explicit permission of the court. If an investigation is ordered the court may permit examination and cross examination of

the preparer of the investigation report.  
(01/01/99)

**RULE 742 - Appointments with Investigator/Mediator**

A party's failure to appear at any appointment with the Probation Department civil investigator/mediator of which he/she has notice shall result in sanctions. In the event that a mediation appointment is made and a party does not appear, without good cause, a sanction of \$50 will be imposed against each party who fails to appear, said sanction to be paid to the County of Kings Probation Office. The sanction will be excused only if forty-eight (48) hours notice of cancellation is given or other good cause is shown. The Probation Department shall develop a form of judgment for said sanction and submit it to the assigned department judge within two (2) weeks of the missed appointment. At the same time, the Probation Department shall send, postage prepaid, a copy of the proposed order to the party who failed to appear. Said party shall have two (2) weeks after mailing to the last known address to object to the entry of the judgment. This remedy for failure to appear is in addition to any other remedy which may be available.

(01/01/99)

**RULE 743 - Custody Orders and Agreements**

In accordance with Family Code section 3024 all custody agreements and orders shall contain language which is in substantial conformity to the following:

"Either parent who plans to change the residence of a child subject to this agreement or order for more than thirty (30) days shall notify the other parent of the contemplated move, by mail, return receipt requested, postage prepaid, to the last known address of the parent to be notified. A copy of the notice shall be sent to that parent's counsel of record. To the extent feasible, the notice shall be provided at least forty-five (45) days prior to the proposed change of residence so as to allow time for mediation of a new agreement concerning custody and visitation. Willful failure to comply with this provision shall be prima facie evidence of wrongful taking of the child by the custodial parent."

It is the policy of the court that, unless explicitly excluded by court order, all custody orders and agreements will be interpreted by the court as if the language of Family Code section 3024 was contained in the order or agreement.

**(RULES 744 - 749 Reserved)**

**Part 6 - MANDATORY SETTLEMENT AND EARLY DISPOSITION CONFERENCES**

**RULE 750 - Settlement Conference Statement**

- (A) All parties and attorneys shall attend a mandatory settlement conference prior to trial at a time and date designated by the court. Presiding over a settlement conference will not disqualify the settlement conference judge from hearing further matters relating to the case.
- (B) Each party shall file with the court and deliver to opposing party at least two (2) court days before the settlement conference a settlement conference statement which shall contain the following:
  - (1) A list of all community assets and encumbrances, including the date of acquisition, purchase price, and present fair market value. If there is a dispute as to whether the asset is in fact community property, a tracing of funds should be included.
  - (2) A list of all property which the party claims is separate property, including the date and method of acquisition. The fair market value of separate assets should also be included.
  - (3) Factual data upon which the parties rely in support of (or in opposition to) a claim for child support and/or spousal support and attorney fees.
  - (4) Where the parties possess real property, the same shall have been appraised before the date of the settlement conference and a copy of the appraisal shall be attached to the statement.
  - (5) Where the furniture has not been divided, a complete inventory of the furniture shall be attached along with an appraisal of same.
  - (6) Motor vehicles listed shall be accompanied by the Kelly Blue Book valuations.
  - (7) When the asset is a pension or retirement plan, an appraisal of the same shall be attached to the statement; provided however, that if a party is willing to divide the asset by the "time rule", no appraisal is required, or if a party is willing to accept the "vested cash value" such party may furnish a certified statement by the holder of the pension giving the "vested cash value" of the pension.



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- (8) A list of the community obligations existing at time of separation. If a spouse is claiming credit for payment after separation, or charging the other party with use of a community asset, an itemized list must be attached.
- (9) Any party contending that community property or quasi-community property of the parties should be valued at a date after separation and prior to the trial shall comply strictly with the provisions of Family Code sections 2550 - 2552 with respect to the notice of the other party. Such motion shall have been heard and determined prior to the date of the settlement conference.
- (10) A statement that the value of an asset or liability is unknown (absent a showing that a good faith appraisal thereof could not be made) or that a valuation of the asset is not made because a party seeks a sale, a deferred sale of the home order, or equal division of the asset, shall be deemed a material failure to comply with these rules.
- (11) Where it is urged that the family home be retained pursuant to Family Code section 3800, all facts relevant to this issue shall be included in the statement.

(01/01/99)

**RULE 751 - Exemption Re Settlement Conference Requirements**

A party may be exempted from strict compliance with the rules of this section upon a showing of good cause and leave granted by the court. A motion for leave to dispense with any mandatory settlement conference requirement shall be filed, calendared, and heard on or before the date of the settlement conference. Proof of a lack of financial resources to pay the costs of an appraiser shall be deemed good cause for an order dispensing with appraisal requirements of this section prior to settlement conference.

(01/01/99)

**RULE 752 - Sanctions**

Parties who have not strictly complied with these settlement conference rules and who have not for good cause been exempted from compliance with these rules shall be subject to such sanctions as the court in its discretion may impose, including but not limited to the following:

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- (1) Continuing the settlement conference to allow the filing of proper settlement conference statements;
- (2) an order that the parties' case be dropped from the civil active list; or
- (3) imposition of any other sanction which may be deemed appropriate including striking the pleadings of the offending party and allowing the matter to proceed as a default.

(01/01/99)

**RULE 753 - Early Disposition Conferences**

Upon mutual request of the parties, a settlement judge will be available for early disposition conferences.

The parties and counsel shall mutually agree on a date for such hearing and shall clear the date with the clerk of the department to which their case is assigned. The purpose of the conference is to expedite and simplify Family Law litigation. Proceedings at the early disposition conference will be informally conducted and will not require compliance with settlement conference rules. Participation in such a hearing is not in lieu of a mandatory settlement conference and shall not relieve either party of the duty to participate in a regularly scheduled settlement conference.

The participation in the early disposition conference shall not preclude the early disposition conference judge from being the trial judge.

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**(RULES 754 - 759 Reserved)**